

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Robert Wharton,	:	Civil Action
Petitioner,	:	
	:	
v.	:	
	:	
Donald Vaughn, et al.,	:	No. 01-6049
Respondents.	:	

**PHILADELPHIA DISTRICT ATTORNEY'S OFFICE MOTION (1) TO
EXCUSE MAX KAUFMAN FROM THE JUNE 2, 2022 HEARING, AND (2) TO
CONTINUE HEARING**

The Philadelphia District Attorney's Office (DAO) files this Motion (1) to excuse Max Kaufman from the June 2, 2022 hearing, and (2) to continue that hearing for the following reasons:

First, as to the request to excuse Mr. Kaufman:

1. By Order dated May 13, 2022, this Court ordered the Supervisor of the DAO's Federal Litigation Unit who signed the February 6, 2019 Notice of Concession of Penalty Phase Relief (Concession) to appear for a hearing to address the concerns raised in the Court's May 11, 2022 Opinion. That person is Max Kaufman.
2. Mr. Kaufman no longer is employed by the DAO, having resigned voluntarily in February 2021 in order to clerk for the Honorable Kevin Dougherty of the Pennsylvania Supreme Court, where he remains working.
3. As explained in his Affidavit (attached as Exhibit A), Mr. Kaufman was not part of the decision-making process that led to the Concession.
4. The persons who have relevant knowledge and information, DAO Law Division Assistant Supervisor Paul George and Law Division Supervisor Nancy Winkelman, will appear before the Court.

Second, as to the request to continue the hearing:

5. Because of the nature of the Court's concerns, the DAO is in the process of engaging outside counsel to represent it in the Rule to Show Cause hearing. The DAO is moving as expeditiously as possible, and expects that it will have counsel in place this week. Counsel will then need to review the underlying case and study the issues raised by the Court in its May 11 Opinion.

6. The DAO therefore requests that the Court permit a brief continuance of the June 2 hearing to a date when its counsel will be available to appear.

For these reasons, the Philadelphia District Attorney's Office requests that the Court (1) excuse Mr. Kaufman from the June 2, 2022 hearing, and (2) continue that hearing to a date when its counsel will be available to appear.

Respectfully submitted,

/s/ Nancy Winkelman
Supervisor, Law Division
Philadelphia District Attorney's Office

/s/ Paul George
Assistant Supervisor, Law Division
Philadelphia District Attorney's Office

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2022, I caused the foregoing Brief to be served on the following persons via ECF:

James P. Barker
Cari Mahler
Pennsylvania Office of Attorney General
16th Floor-Strawberry Square
Harrisburg, PA 17120

Elizabeth McHugh
Claudia Van Wyk
Federal Community Defender Office
Capital Habeas Corpus Unit District Attorney's Office
601 Walnut Street, Suite 545 West 3 South Penn Square
Philadelphia, PA 19106

/s/ Nancy Winkelman
Supervisor, Law Division
Philadelphia District Attorney's Office

/s/ Paul George
Assistant Supervisor, Law Division
Philadelphia District Attorney's Office